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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/539,248

10/20/2006

Gundula Roth

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7590

09/14/2009

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EXAMINER

RALEIGH, DONALD L

ART UNIT

PAPER NUMBER

2879

MAIL DATE

DELIVERY MODE

09/14/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/539,248	Applicant(s) ROTH ET AL.	
	Examiner DONALD L. RALEIGH	Art Unit 2879	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 11-18 and 26-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 11-18 and 26-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06/01/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 06/01/2009 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 01, 2009 has been entered.

Response to Amendment

The Amendment, filed on June 1, 2009 has been entered and acknowledged by the Examiner.

Cancellation of **Claims 10 and 25** has been entered.

Claims 1-9, 11-24 and 26-31 are pending in the instant application.

Claims 4-9 and 19-24 have been withdrawn from further consideration.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-3, 11-18 and 26-31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claims contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention . Although "phosphor mixtures" are disclosed in the specification, they are not being claimed as such. The independent **Claims 1 and 14-16**, in light of the disclosure, do not enable one to determine which components are present in the combinations and thereby to construct or use the proposed invention. **Claims 2-3, 11-13, 17-18 and 26-31** are rejected because of their dependency.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3, 11-18 and 26-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The contents of the claims are unclear as to which components are present in the combinations. Furthermore, the use of the terms "light emitting component" and "wavelength converting part" further confuse the substance of the claims.

Claims 2-3, 11-13, 17-18 and 26-31 are rejected because of their dependency.

Examiner Note: It appears that applicant is claiming a phosphor mixture but it is not claimed as such. It is also not clear if the light emitting components claimed are the same or different ones as there is no first, second, third, etc. suggested.

Possible suggestions for the format of these claims are as follows:

A phosphor mixture consisting of:

a first phosphor selected from the group consisting of: (A,B,C.....) **and**

a second phosphor selected from the group consisting of: (A,B,C.....) **and**

a third phosphor selected from the group consisting of: (A,B,C.....) **and**

a fourth phosphor having the general formula:.....

Or

a phosphor mixture comprising eight or less of said phosphors having.....

and said fourth phosphor.

The present state of the claims does not enable a reasonable search to be completed.

Response to Arguments

Applicant's arguments with respect to **claims 1-9, 11-24 and 26-31** have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DONALD L. RALEIGH whose telephone number is (571)270-3407. The examiner can normally be reached on Monday-Friday 7:30AM to 5:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on 571-272-2457. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Peter J Macchiarolo/
Primary Examiner, Art Unit 2879

/Donald L Raleigh/
Examiner, Art Unit 2879